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HB 1563 RELATING TO FORESTS

Statement for
House Committee on
Water, Land Use, Development and Hawaiian Affairs
Public Hearing - March 3, 1987

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HB 1563 would amend and add a new section to HRS 186 to: (1) establish permit procedures for commercial logging operations in any areas not designated as a tree farm including native forests; (2) define terms; (3) further define the general duties of the department; (4) modify the scope of zoning rules to include the conservation of native forests; (5) establish notification procedures for hearings involving native forests; and (6) amend HRS 343-5 to require an environmental assessment for actions which propose any commercial logging in a native forest not previously designated a tree farm.

Our statement on this bill does not represent an institutional position of the University of Hawaii.

Section 1

The provisions of the bill, appear to have little relationship to the findings stated in Section 1. The opening section of the bill setting forth the findings of the legislature that led to the introduction of this bill calls attention to the wide destruction of native forests because of increased human activity, including forest conversion and introduction of exotic plants and animals. The importance of the native ecosystems is recognized as a natural resource of scientific, cultural, educational, environmental and economic value to Hawaii and the need to conserve and protect native forests is specifically noted as is the need to encourage the development of intensively managed tree farms where industrial forest management is appropriate. The major focus of the bill, however, does not address these findings but instead provides new sections to establish procedures to allow for the commercial logging of native forests. No substantive new data with respect to tree farms is included.

The following specific comments are called to your attention.

Applicability and Requirements

"Forest" is defined as a land area in which ten per cent of the canopy cover of woody plants is greater than five meters in height. We suggest that the height figure be reduced to "greater than two meters in height". Since not all forest areas are mature, and saplings may be much less than five meters in height, provision for these younger, smaller stands should be provided. The 10% figure for the canopy cover seems reasonable.

"Native Forests" are defined as "a forest in which thirty per cent of the tree canopy consists of the canopy of native species,.....as defined in chapter 195D-2." We suggest that the 30 percent figure is too large and that a forest in which 10 per cent of the tree canopy is native species would be a more appropriate criteria for the designation of "Native forest". We see no rationale for establishing criteria for "native forest" canopy cover designation less restrictive than "forest" designation.

Duties in general

Among the various duties of the department under section 183-1.5, would be added the responsibility to gather and compile information and statistics concerning the relative watershed quality and native and introduced forests. Responsible management would certainly need this type of information and we concur with these amendments.

Paragraph 3, page 4, would give the department the power to manage and regulate all forest reserves, natural area reserves and sanctuaries for native wildlife and plant(s). How would this additional power relate to the responsibilities of the Natural Area Reserves System Commission?

Paragraph (6) adds a new paragraph that gives the department responsibility for defining those native forests that are to be protected and those (native?) forests that are to be used for purposes "not necessarily compatible with preservation goals". This paragraph establishes the legal basis for the department to designate certain native forests for commercial logging, among other things. Logging of native forests should not be permitted as they represent a finite resource that should be protected in accordance with the rationale presented in the findings statement on page 1 of the bill. Native forests should not be further fragmented into smaller and smaller areas as this destroys the integrity of the forest as a self maintaining system.

Section 4c(3)

The Scope of Zoning is amended (page 8) to include provision for the department to adopt rules governing the conservation of native forests. This provision would permit native forests to be subzoned to permit among

several uses, commercial timber operations. We believe that native forests should be protected from commercial exploitation in general, in concurrence with the findings of the bill and our comments in the previous paragraph.

Section 4d. Notice, hearings

Provision for notification of proposed changes to permitted uses within the areas covered by section 186 are to be given once in a newspaper of general circulation in the State and in the county. In addition, the department is required to mail notices of the hearing to all persons who have made a timely written request for notice. A requirement of written request seems unduly restrictive particularly since a potentially interested party may miss the single publication and thereby be delayed in requesting information about forthcoming hearings. A verbal request for notification of public hearings of actions involving native forests should be permitted.

Section 5

This section of the bill would amend HRS 343-5, Environmental Impact Statements, by adding to the actions which require and environmental assessment, those actions that propose any commercial logging in a native forest not previously designated a tree farm, as defined in section 186-. While we certainly concur with the need for environmental assessment for commercial logging actions in native forests, we do not concur with the restriction of the proposed amendment that would limit the application of HRS 343 only to logging projects in a native forest.

It should be recognized that the purpose of the EIS law, HRS Chapter 343, was to establish certain procedures to follow to assure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations. Application of the law focuses on the geographic land-base upon which the specific action will take place, not on the individual actions themselves. The proposed requirement for environmental assessment for a specific type of action, commercial logging in this case, would deviate from the geographic basis of the law and set a precedent that could result in wide scale requests to the legislature for piecemeal, special interest amendments. To rectify the problem while maintaining the intent of the amendment to assure that environmental concerns are adequately examined with regard to native forests, we propose that paragraph (7) be amended to read: "Propose any use within a native forest not previously designated a tree farm, as defined in section 186-". This would assure that the environmental ramifications of actions, that could have significant impacts on the viability of native forests, including commercial logging, would be considered prior to their implementation.